

NATIONAL GOVERNORS ASSOCIATION
FEDERAL FACILITIES TASK FORCE
COLLECTIVE MESSAGE TO
THE U.S. DEPARTMENT OF ENERGY

APRIL 11, 2001

STATE—DOE PARTNERSHIP FOR ACTION

Since 1993 the National Governors Association (NGA) has been convening Governors' policy advisors, state regulators, and Department of Energy (DOE) officials together to examine critical issues related to the cleanup and operation of DOE nuclear weapons and research facilities. Open and effective dialogue on these issues has been invaluable in increasing mutual understanding about each site's current and potential role in the complex-wide design for management of radioactive waste and material. The states urge the incoming Administration to continue to engage the Governors through NGA's Federal Facilities Task Force in this important, collaborative dialogue. While we will not always share exactly the same priorities or agree on every issue, the states continue to believe that we can – and must – find opportunities to work as partners to accomplish our shared cleanup mission. The NGA Task Force stands ready to work with DOE to ensure that a comprehensive and coordinated waste cleanup program remains a top national priority.

Key Areas for Action

1. Budget and Cleanup Efficiencies

States have a record of supporting DOE in requesting fully compliant budgets, and intend to continue to do so. However, there is concern and disappointment among the states about the budget levels for FY 2002 contained in the documents released by the Administration on April 9. The budget reflects troubling cuts at most sites; these reductions call into question the path that DOE, the states and other stakeholders have been working to mutually create. The states view this budget request as counterproductive for five primary reasons:

- **It is not clear that the requested budget is sufficient to support compliance.** Compliance with existing agreements is needed to protect humans and the environment from on-going risks posed by DOE sites and required as a matter of state and Federal law. Budget requests that fall short of funding levels required to ensure compliance are counterproductive both environmentally and legally.
- **The budget undermines DOE's credibility.** The Department has made public commitments to significant increments of cleanup progress at many sites. In most cases, these commitments have been made in the context of the dynamic compliance agreements negotiated between DOE and the states. Keeping these commitments is essential to maintain public confidence in the Department's ability to manage itself and its contractors to accomplish the cleanup mission, particularly where sites and states are being asked to assume additional responsibilities for treatment and disposal. If public confidence is undermined, the Department's—and the states'—work becomes enormously more difficult.

- **The budget doesn't account for Environmental Management's expanding responsibilities.** The responsibilities of EM have continued to grow as it receives sites or portions of sites transferred from Defense Programs and other parts of DOE. Budget discussions cannot ignore the changing—and expanding—scope of responsibilities at many sites.
- **The budget doesn't acknowledge the “mortgage” cost.** While slowing down cleanup may seem to save money in the short-term, given the ongoing mortgage costs of maintaining the status quo at legacy waste sites, cuts in the cleanup budget are “penny wise and pound foolish.” Budget cuts now will ultimately lead to much higher life-cycle costs for the overall cleanup.
- **The budget doesn't support a complex-wide approach.** As the cleanup program has matured, linkages and interdependencies among complex sites have become more important. DOE and the states must work together to understand and support these evolving interdependencies. Delays in progress at one site can cause costly delays at other sites when appropriate outlets for waste management are not available.

The NGA task force would like to work with DOE to address these issues.

In the larger context, the states see the need to continue to increase the efficiency of environmental cleanup approaches and programs; however, these initiatives must begin from a position of adequate funding for existing commitments and from an understanding of the significant improvements and efficiencies that the states and DOE have together created in recent years. The task force will be drafting an issue paper to highlight: examples of approaches that are currently working well to support efficient and effective cleanup; key interdependencies within the DOE complex and a vision for what the complex will eventually look like; and opportunities for new or improved clean up efficiencies. For example, the states believe that new or revised policies in the following areas could lead to significant savings: waste management integration for remote-handled TRU waste; reexamination of the moratorium on metals recycling; and development of a complex-wide policy for excess uranium. We are eager to engage with DOE on these and other opportunities.

2. Long-Term Stewardship

This is a very important issue to states and critical to ensuring thoughtful cleanup decisions in the short-term and protection of humans and the environment in the long-term. The states appreciate the Department's efforts to bring to the table a broad range of issues related to long-term stewardship (LTS). States also appreciate and support the high priority that has been given to this issue within the Office of Environmental Management. Cleanup decisions that will be made over the next few years carry with them profound implications for long-term stewardship. DOE needs to identify the full range of stewardship obligations inherent in any cleanup alternative so that regulators, DOE, and other stakeholders can adequately weigh the costs and benefits of various options under consideration.

The NGA Task Force, in partnership with other groups such as the Energy Communities Alliance, NAAG, ECOS, and the State and Tribal Governments Working Group, is examining several LTS issues.

States have reviewed DOE's recent *Report to Congress on Long-Term Stewardship* and anticipate providing detailed comments under separate cover. While the report was a good first attempt at compiling information about the Department's LTS responsibilities, states believe it significantly underestimates long-term stewardship costs. As acknowledged in the report, there are serious limitations in the data available to produce the document. In light of these limitations, it is important that DOE not use the cost estimates as a basis for decision making. In preparation for their participation in development of the site-specific 2004 long-term stewardship plans, states will be working with individual DOE facilities to more completely understand the basis for the long-term stewardship activities and costs estimated in the Report to Congress. The ability of the states to be fully involved in reviewing and validating relevant data sets has been a key underpinning of the success of the state/DOE dialogue over the years.

3. Implementation of Site Cleanup from a Complex-Wide Perspective

As discussed above, the key attribute emerging in the DOE complex is the interrelationships and interdependencies among sites. The NGA task force is eager to engage with DOE in furthering our understandings of these interrelationships and interdependencies to create a comprehensive, complex-wide vision and perspective. This understanding will provide a platform from which DOE, states, and other stakeholders can understand the *cumulative impacts* of decisions and priorities. Without a complex-wide view, states have a very difficult time supporting or explaining decisions to stakeholders and Congress. States need to be informed of DOE initiatives or upcoming decisions before they are made. If states are surprised by DOE decisions, it hurts their ability to explain a decision, even if it is the right solution.

States continue to be vitally interested in the complex-wide implementation of the Low-Level Waste and Mixed Low-Level Waste Record of Decision and believe it should be carried out in the most transparent way possible. As the RODs are implemented, states will collectively continue to look at complex-wide equity; integration; future land uses/missions; and transportation issues.

4. External Regulation

States remain committed to assuring credible and effective regulation of all of DOE's sites, including sites under the jurisdiction of the National Nuclear Security Administration. States, working with other regulators, want to assure that we as a nation avoid cleanup decisions that we later regret and must commit vast resources to re-evaluate and remediate. States believe that the current institutional structure for external regulation should be clarified and strengthened.

5. Communication

We understand that Secretary Abraham recently sent the Governors a letter inviting them to engage with him directly on many issues key to cleanup of the DOE complex and to designate a representative to work closely with the EM Assistant Secretary. While we can see the value in this type of dialogue, and some Governors may choose to participate, we believe it is also critical that DOE continue its positive and productive relationship with the NGA Task Force. States look forward to continuing their interaction with DOE at the site and complex-wide levels, and encourage the Department to bring its ideas, initiatives, and concerns to this forum for dialogue.